COMMISSION DECISION

of 11 July 2005

concerning a request from the Republic of Hungary to apply a reduced rate of VAT to the supply of natural gas

(notified under document number C(2005) 2514)

(Only the Hungarian text is authentic)

(2005/568/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment [1], as last amended by Directive 2004/66/EC [2], and in particular Article 12(3)(b) thereof,

Whereas:

(1) By letter registered at the Commission on 12 April 2005 the Republic of Hungary informed the Commission of its intention of applying a reduced rate of VAT to the supply of natural gas.

(2) According to Annex X of the Accession Treaty, Hungary is allowed to apply the reduced VAT rate for the supply of natural gas and electricity until one year after accession to the EU. As from 1 January 2004, Hungary has applied the standard VAT rate to the supply of electricity.

(3) Hungary intends to continue to apply a reduced rate to the supply of gas (15 %) and the standard rate to electricity (25 %). This differentiation of rates neither causes distortion of competition, nor a shift from the consumption of electricity to the consumption of gas. This is mainly due to national rules for the establishment of prices, which are quite different between natural gas and electricity, and to the fact that, from a technical-technological point of view, the two products can be substitute goods only for heating purposes. According to the information given by Hungarian authorities, the price for electricity is about three times the one for natural gas.

(4) Moreover, the VAT rules regarding the place of supply of natural gas, as laid down in the Sixth VAT Directive, were amended by Directive 2003/92/EC [3]. The supply of natural gas in the final stage, from traders and distributors to final consumer, is taxed at the place where the customer has effective use and consumption of the goods, in order to ensure that taxation takes place in the country where actual consumption takes place.

(5) The planned measure is a general one applying a reduced rate of VAT to the supply of natural gas under Article 12(3)(b) of the Sixth VAT Directive.

(6) Since the measure is a general one with no provision for exceptions, the risk of distortion of competition must be deemed non-existent. Since the condition laid down by Article 12(3)(b) of the Sixth Directive is thus fulfilled, Hungary should be able to apply the measure concerned as soon as this Decision is notified,

HAS ADOPTED THIS DECISION:

Article 1

Hungary may apply the measure notified in its letter of 12 April 2005, applying a reduced rate of VAT to the supply of natural gas irrespective of the conditions of production and supply.

Article 2

This Decision is addressed to the Republic of Hungary.

Done at Brussels, 11 July 2005.

For the Commission
László KOVÁCS
Member of the Commission

[1] OJ L 145, 13.6.1977, p. 1.
[2] OJ L 168, 1.5.2004, p. 35.
[3] OJ L 260, 11.10.2003, p. 8.